



UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DURAMED PHARMACEUTICALS, INC.,

Plaintiff,

v.

WATSON LABORATORIES, INC.,

Defendant.

3:08-cv-0116-LRH-RAM

ORDER

Before the court is plaintiff Duramed Pharmaceuticals, Inc.'s ("Duramed") motion for leave to file an amended complaint. Doc. #308.<sup>1</sup>

Also before the court is defendant Watson Laboratories, Inc.'s ("Watson") cross-motion to bifurcate, or in the alternative for leave to file a motion for summary judgment. Doc. #309.

**I. Facts and Background**

Plaintiff Duramed is a pharmaceutical company that researches, patents, commercializes, markets, and distributes brand name pharmaceutical drugs. On January 22, 2008, Duramed was issued U.S. Patent No. 7,320,969 ("the '969 patent") for a new extended contraceptive regimen to be marketed under the brand name Seasonique.

On March 6, 2008, Duramed filed the instant action against Watson for infringement of the

<sup>1</sup> Refers to the court's docket number.

1 '969 patent. After the initiation of this action, Watson began marketing and distributing its generic.  
2 Thereafter, Duramed filed the present motion for leave to file an amended complaint. Doc. #308.

3 **II. Discussion**

4 A party may amend its pleadings after a responsive pleading has been filed by leave of  
5 court. FED. R. CIV. P. 15(a)(2). Leave of court to amend should be freely given when justice so  
6 requires and when there is no undue delay, bad faith, or dilatory motive on the part of the moving  
7 party. *See Wright v. Incline Village General Imp. Dist.*, 597 F.Supp.2d 1191 (D. Nev. 2009); *DCD*  
8 *Programs, LTD v. Leighton*, 883 F.2d 183 (9th Cir. 1987).

9 Here, Duramed requests leave to amend its complaint to add a new cause of action for direct  
10 infringement against Watson. *See* Doc. #308. A copy of the proposed amended complaint is  
11 attached as Exhibit 1 in accordance with LR 15-1. Doc. #308, Exhibit 1.

12 The court finds that there is no undue delay, bad faith, or dilatory motive on behalf of  
13 Duramed in requesting leave to amend his complaint. Further, the court finds that Watson would  
14 not be prejudiced by allowing amendment because Watson did not begin distributing its generic  
15 competing drug until July 2011. Accordingly, the court shall grant Duramed's motion for leave to  
16 amend its complaint.

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1 IT IS THEREFORE ORDERED that plaintiff's motion for leave to file an amended  
2 complaint (Doc. #308) is GRANTED. The clerk of court shall file the attached amended complaint  
3 (Doc. #308, Exhibit 1).

4 IT IS FURTHER ORDERED that defendant's cross-motion to bifurcate, or in the  
5 alternative for leave to file a motion for summary judgment (Doc. #309) is GRANTED. Defendant  
6 shall have up to sixty (60) days from entry of this order to file a motion for summary judgment.

7 IT IS SO ORDERED.

8 DATED this 19<sup>th</sup> day of September, 2011.



LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE